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SERIAL NUMBER	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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07/780,455 10/22/91 ASAHINA

M PD-8811FWC

EXAMINER

LOKE, S

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ART UNIT PAPER NUMBER

2508

30

DATE MAILED: 05/27/92

This is a communication from the examiner in charge of your application.  
COMMISSIONER OF PATENTS AND TRADEMARKS

☒ This application has been examined ☐ Responsive to communication filed on \_\_\_\_\_ ☐ This action is made final.

A shortened statutory period for response to this action is set to expire \_\_\_\_\_ month(s), 30 days from the date of this letter.  
Failure to respond within the period for response will cause the application to become abandoned. 35 U.S.C. 133

**Part I THE FOLLOWING ATTACHMENT(S) ARE PART OF THIS ACTION:**

- ☐ Notice of References Cited by Examiner, PTO-892.
- ☐ Notice re Patent Drawing, PTO-948.
- ☐ Notice of Art Cited by Applicant, PTO-1449.
- ☐ Notice of Informal Patent Application, Form PTO-152.
- ☐ Information on How to Effect Drawing Changes, PTO-1474.
- ☐ \_\_\_\_\_

**Part II SUMMARY OF ACTION**

1. ☒ Claims 1-24 are pending in the application.

Of the above, claims \_\_\_\_\_ are withdrawn from consideration.

2. ☐ Claims \_\_\_\_\_ have been cancelled.

3. ☐ Claims \_\_\_\_\_ are allowed.

4. ☐ Claims \_\_\_\_\_ are rejected.

5. ☐ Claims \_\_\_\_\_ are objected to.

6. ☒ Claims 1-24 are subject to restriction or election requirement.

7. ☐ This application has been filed with Informal drawings under 37 C.F.R. 1.85 which are acceptable for examination purposes.

8. ☐ Formal drawings are required in response to this Office action.

9. ☐ The corrected or substitute drawings have been received on \_\_\_\_\_. Under 37 C.F.R. 1.84 these drawings are ☐ acceptable ☐ not acceptable (see explanation or Notice re Patent Drawing, PTO-948).

10. ☐ The proposed additional or substitute sheet(s) of drawings, filed on \_\_\_\_\_ has (have) been ☐ approved by the examiner. ☐ disapproved by the examiner (see explanation).

11. ☐ The proposed drawing correction, filed on \_\_\_\_\_, has been ☐ approved ☐ disapproved (see explanation).

12. ☐ Acknowledgment is made of the claim for priority under U.S.C. 119. The certified copy has ☐ been received ☐ not been received  
☐ been filed in parent application, serial no. \_\_\_\_\_; filed on \_\_\_\_\_

13. ☐ Since this application appears to be in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11; 453 O.G. 213.

14. ☐ Other

EXAMINER'S ACTION

8.08 Restriction to one of the following inventions is required under 35 U.S.C. § 121:

I. Claims 1-22 and 24, drawn to a semiconductor device, classified in Class 357, subclass 67.

II. Claim 23, drawn to process for making semiconductor devices, classified in Class 437, subclass 180.

8.13 The inventions are distinct, each from the other because of the following reasons:

8.18 Inventions II and I are related as process of making and product made. The inventions are distinct if either or both of the following can be shown: (1) that the process as claimed can be used to make other and materially different product or (2) ~~that the~~ product as claimed can be made by another and materially different process (M.P.E.P. § 806.05(f)). In the instant case unpatentability of the group I invention would not necessarily imply unpatentability of the group II invention, since the device of the group I invention could be made by processes materially different than those/that of the group II invention, for example, in claim 23, instead of performing a plating operation on the at least one layer in the upper conductor structure, sputtering and chemical vapor deposition can be used to form a metal layer on the at least one layer.

8.21 Because these inventions are distinct for the reasons given above and, as shown by the above different classifications, the fields of search are not co-extensive and sperate examination would

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be required, restriction for examination purposes as indicated is proper.

8.22 Applicant is advised that the response to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed.

8.23.2 Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 C.F.R. § 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a diligently-filed petition under 37 C.F.R. § 1.48(b) and by the fee required under 37 C.F.R. § 1.17(h).

Any inquiry concerning this communication should be directed to Examiner Loke at telephone number (703) 308-4920.

Loke/dw  
May 26, 1992

*S. L.*

*Rolf Hille*  
ROLF HILLE  
SUPERVISORY PATENT EXAMINER  
ART UNIT 2508